

AMENDED IN SENATE JULY 14, 2011

AMENDED IN SENATE JULY 12, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 14, 2011

AMENDED IN ASSEMBLY MARCH 15, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 152**

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**Introduced by Assembly Member Fuentes**  
**(Coauthors: Assembly Members Achadjian and Harkey)**  
~~(Coauthor: Senator~~ *Coauthors: Senators Hancock and Padilla)*

January 18, 2011

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An act to add Section 131057.5 to the Health and Safety Code, to add and repeal Sections 17053.88 and 23688 of the Revenue and Taxation Code, and to add Chapter 14.5 (commencing with Section 18995) to Part 6 of Division 9 of the Welfare and Institutions Code, relating to food banks.

### LEGISLATIVE COUNSEL'S DIGEST

AB 152, as amended, Fuentes. Food banks: grants: voluntary contributions: income tax credits.

(1) Existing law establishes the scope of functions and responsibilities of the State Department of Public Health.

This bill would additionally require the State Department of Public Health to investigate and apply for federal funding opportunities regarding promoting healthy eating and preventing obesity, as specified, and, upon receipt of that funding, allow the department to award grants

and provide in-kind support to support local assistance to local governments and nonprofit organizations that encourage specified healthy eating programs, as provided.

(2) Existing federal law, the Emergency Food Assistance Program, is administered by the State Department of Social Services to provide agricultural commodities to eligible households and recipient agencies for distribution, as prescribed.

This bill would require the State Department of Social Services, on and after January 1, 2012, to establish and administer the State Emergency Food Assistance Program (SEFAP), to provide emergency food and funding for the provision of emergency food, as provided. This bill would create the State Emergency Food Assistance Program Account and would, upon appropriation by the Legislature, allocate the moneys in the account to SEFAP and require that those moneys be used for the purchase, storage, and transportation of food grown or produced in California.

(3) The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would, under both laws, for taxable years beginning on or after January 1, 2012, and before January 1, 2017, allow, *without regard to the taxpayer's method of accounting*, a credit for qualified taxpayers, as defined, in an amount equal to 10% of the cost ~~to~~ *that would otherwise* be included in inventory costs, as specified, with respect to the donation of fresh fruits or fresh vegetables to food banks located in California.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) On December 16, 2010, the State Board of Food and
- 4 Agriculture released the strategic plan for the future of the state's
- 5 agriculture and food system entitled "California Agricultural
- 6 Vision: Strategies for Sustainability," which defines 12 key
- 7 strategies for California's agriculture and food sector, including a
- 8 strategy to improve access to safe, healthy food for all Californians
- 9 in order to reduce hunger and malnutrition, chronic diseases, and
- 10 health care costs associated with poor diets, and expand markets

1 for fruits, vegetables, grains, dairy, and meat grown and produced  
2 in California.

3 (b) On December 3, 2010, the California Strategic Growth  
4 Council accepted the first report of the Health in All Policies Task  
5 Force, established by Executive Order S-04-10 of Governor Arnold  
6 Schwarzenegger on February 23, 2010, which includes a goal that  
7 every California resident has access to healthy, affordable food at  
8 school, at work, and in his or her neighborhood.

9 (c) California has some of the most productive farmlands in the  
10 world. California's farmlands produce more than 350 commodities,  
11 specialty crops, and other food items. These farmlands are essential  
12 for providing a healthy food supply and guarantee a natural  
13 resource for California's future generations.

14 (d) According to a University of California at Los Angeles  
15 survey of Californians' health status, despite the state's agricultural  
16 abundance, more than 8 million people live in a household where  
17 an adult cannot always afford enough food.

18 (e) Californians who experience hunger and food insecurity  
19 suffer from poor physical and emotional health, as well as a  
20 diminished capacity to learn and succeed in the workplace.

21 (f) Access to healthy food is a basic human right. Low  
22 consumption and lack of access to healthy, affordable food may  
23 result in higher levels of obesity and other diet-related diseases.

24 (g) One in every nine California children, one in three teens,  
25 and over half of adults are overweight or obese. The obesity  
26 epidemic affects virtually all age, income, educational, ethnic, and  
27 disability groups in California, and rates are highest among  
28 Californians of Latino, American-Indian, African American, and  
29 Pacific Islander descent, Californians from lower income  
30 households, and those with disabilities. More than 30 percent of  
31 low-income California children and teens are overweight or obese.

32 (h) The growing epidemic of overweight individuals is due to  
33 poor diet and physical inactivity, putting growing numbers of  
34 Californians at risk for type 2 diabetes, hypertension, heart disease,  
35 stroke, and cancer. Increased risk of chronic disease has been  
36 attributed to low fruit and vegetable intake in the United States,  
37 accounting for \$30 billion in associated health care costs in 2008  
38 and 2009.

39 (i) According to the federal Centers for Disease Control and  
40 Prevention, in 2009 less than 20 percent of young people and 23

1 percent of all American adults reported consuming the minimum  
2 goal of five servings of fruits and vegetables each day.

3 (j) In California, partnerships between private and public entities,  
4 among state and local government, local and regional businesses,  
5 nonprofit organizations, health care institutions, food banks, and  
6 other emergency food providers have helped to establish  
7 community programs to combat obesity and related diseases,  
8 increase access to healthy food, promote healthy eating, increase  
9 consumption of fruits and vegetables, and encourage physical  
10 activity.

11 (k) It is in the interest of the state to support programs that  
12 promote increased access to healthy food and increased  
13 consumption of California-grown fresh fruits and vegetables, whole  
14 grains, and low-fat dairy in order to improve child and adult  
15 nutrition, promote a strong, healthy workforce, and strengthen  
16 local and regional farm economies.

17 (l) With the significant fiscal challenges in California, it is  
18 further in the interest of the state to maximize the availability of  
19 federal funding in California in order to support programs and  
20 activities that prevent obesity and hunger and increase access to  
21 healthy food and consumption of healthy food.

22 (m) It is further in the interest of the state to encourage and  
23 facilitate partnerships between public and private entities to  
24 promote a comprehensive approach to nutrition and wellness,  
25 including activities that reduce obesity and related diseases,  
26 encourage physical activity, and provide nutrition education in  
27 order to ensure that all Californians have access to healthy food  
28 and can choose a healthy diet.

29 SEC. 2. Section 131057.5 is added to the Health and Safety  
30 Code, to read:

31 131057.5. (a) The State Department of Public Health shall  
32 investigate and apply for federal funding opportunities regarding  
33 promoting healthy eating and preventing obesity, including those  
34 available under the federal Food, Conservation, and Energy Act  
35 of 2008 (Public Law 110-234), the federal American Recovery  
36 and Reinvestment Act of 2009 (Public Law 111-5), the federal  
37 Patient Protection and Affordable Care Act (Public Law 111-148),  
38 and the federal Healthy, Hunger-Free Kids Act of 2010 (Public  
39 Law 111-296).

(b) Upon receipt of federal funding regarding promoting healthy eating and preventing obesity, the State Department of Public Health may, in its sole discretion, provide in-kind support and award grants to support local assistance to local governments and nonprofit organizations that the department deems eligible to encourage the sale and consumption of fresh fruits and vegetables, implement programs and initiatives that prevent obesity and hunger, and promote healthy eating and access to nutritious food in underserved and urban and rural communities. The award of these grants shall be exempt from the State Contract Act (Part 2 (commencing with Section 10100)) of Division 2 of the Public Contract Code.

SEC. 3. Section 17053.88 is added to the Revenue and Taxation Code, to read:

17053.88. (a) In the case of a qualified taxpayer who donates fresh fruits or fresh vegetables to a food bank located in California under Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code, for taxable years beginning on or after January 1, 2012, and before January 1, 2017, there shall be allowed, *without regard to the taxpayer's method of accounting*, as a credit against the "net tax" (as defined by Section 17039), an amount equal to 10 percent of the cost *that would otherwise be* included in inventory costs under Section 263A of the Internal Revenue Code, or that would be required to be included in inventory costs under Section 263A of the Internal Revenue Code, but for the exception for farming businesses contained in Section 263A(d) of the Internal Revenue Code, with respect to those fresh fruits or fresh vegetables.

(b) For purposes of this section, "qualified taxpayer" means the person responsible for planting a crop, managing the crop, and harvesting the crop from land.

(c) If the credit allowed by this section is claimed by the qualified taxpayer, any deduction otherwise allowed under this part for that amount of the cost paid or incurred by the qualified taxpayer that is eligible for the credit shall be reduced by the amount of the credit provided in subdivision (a).

(d) The donor shall provide to the nonprofit organization the estimated value of the donated fresh fruits or fresh vegetables and information regarding the origin of where the donated fruits or vegetables were grown, and upon receipt of the donated fresh fruits

1 or fresh vegetables, the nonprofit organization shall provide a  
2 certificate to the donor. The certificate shall contain a statement  
3 signed and dated by a person authorized by that organization that  
4 the product is donated under Chapter 5 (commencing with Section  
5 58501) of Part 1 of Division 21 of the Food and Agricultural Code.  
6 The certificate shall also contain the type and quantity of product  
7 donated, the name of donor or donors, the name and address of  
8 the donee nonprofit organization, and, as provided by the donor,  
9 the estimated value of the donated fresh fruits or fresh vegetables  
10 and its origins. Upon the request of the Franchise Tax Board, the  
11 qualified taxpayer shall provide a copy of the certification to the  
12 Franchise Tax Board.

13 (e) In the case where the credit allowed by this section exceeds  
14 the “net tax,” the excess may be carried over to reduce the “net  
15 tax” in the following year, and for the six succeeding years if  
16 necessary, until the credit has been exhausted.

17 (f) Using the information available to the Franchise Tax Board  
18 from the certificates required under subdivision (d) and subdivision  
19 (d) of Section 23688, the Franchise Tax Board shall report to the  
20 Legislature on or before December 1, 2014, and each December  
21 1 thereafter until the inoperative date specified in subdivision (g),  
22 regarding the utilization of the credit authorized by this section  
23 and Section 23688. The Franchise Tax Board shall also include in  
24 the report the type and quantity of fresh fruits and fresh vegetables  
25 donated, the estimated value of those products, the county in which  
26 the products originated, the county in which the donation was  
27 made, and the month the donation was made.

28 (g) (1) A report to be submitted pursuant to subdivision (f) shall  
29 be submitted in compliance with Section 9795 of the Government  
30 Code.

31 (2) The requirement for submitting a report imposed under  
32 subdivision (f) is inoperative on January 1, 2016, pursuant to  
33 Section 10231.5 of the Government Code.

34 (h) This section shall remain in effect only until December 1,  
35 2017, and as of that date is repealed.

36 SEC. 4. Section 23688 is added to the Revenue and Taxation  
37 Code, to read:

38 23688. (a) In the case of a qualified taxpayer who donates  
39 fresh fruits or fresh vegetables to a food bank located in California  
40 under Chapter 5 (commencing with Section 58501) of Part 1 of

Division 21 of the Food and Agricultural Code, for taxable years beginning on or after January 1, 2012, and before January 1, 2017, there shall be allowed, *without regard to the taxpayer's method of accounting*, as a credit against the "tax" (as defined by Section 23036), an amount equal to 10 percent of the cost *that would otherwise be* included in inventory costs under Section 263A of the Internal Revenue Code, or that would be required to be included in inventory costs under Section 263A of the Internal Revenue Code, but for the exception for farming businesses contained in Section 263A(d) of the Internal Revenue Code, with respect to those fresh fruits or fresh vegetables.

(b) For purposes of this section, "qualified taxpayer" means the person responsible for planting a crop, managing the crop, and harvesting the crop from land.

(c) If the credit allowed by this section is claimed by the qualified taxpayer, any deduction otherwise allowed under this part for that amount of the cost paid or incurred by the qualified taxpayer that is eligible for the credit shall be reduced by the amount of the credit provided in subdivision (a).

(d) The donor shall provide to the nonprofit organization the estimated value of the donated fresh fruits or fresh vegetables and information regarding the origin of where the donated fruits or vegetables were grown, and upon receipt of the donated fresh fruits or fresh vegetables, the nonprofit organization shall provide a certificate to the donor. The certificate shall contain a statement signed and dated by a person authorized by that organization that the product is donated under Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and ~~Agriculture~~ *Agricultural* Code. The certificate shall also contain the type and quantity of product donated, the name of donor or donors, the name and address of the donee nonprofit organization, and, as provided by the donor, the estimated value of the donated fresh fruits or fresh vegetables and its origins. Upon the request of the Franchise Tax Board, the qualified taxpayer shall provide a copy of the certification to the Franchise Tax Board.

(e) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and for the six succeeding years if necessary, until the credit has been exhausted.

(f) This section shall remain in effect only until December 1, 2017, and as of that date is repealed.

SEC. 5. Chapter 14.5 (commencing with Section 18995) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 14.5. THE STATE  
EMERGENCY FOOD ASSISTANCE PROGRAM

18995. (a) On and after January 1, 2012, the State Department of Social Services shall establish and administer the State Emergency Food Assistance Program (SEFAP). The SEFAP shall provide emergency food and funding for the provision of emergency food to food bank networks and other organizations whose ongoing primary function is to facilitate the distribution of food to low-income households.

(b) The State Emergency Food Assistance Program Account is hereby established in the Emergency Food Assistance Program Fund established pursuant to Section 18852 of the Revenue and Taxation Code, and may receive General Fund moneys, federal funds, and voluntary donations or contributions. All moneys received by the State Emergency Food Assistance Program Account shall, upon appropriation by the Legislature, be allocated to the State Department of Social Services for allocation to the SEFAP and shall be used for the purchase, storage, and transportation of food grown or produced in California. Moneys in the fund shall not be used for the administrative costs of the State Department of Social Services.